



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

09/895,950

06/29/2001

Robert D. Vanderminden SR.

8109

7590

06/23/2006

Francis C. Hand Esq.
c/o Carella, Byrne, Bain, Gilfillan, Cecchi,
Stewart & Olstein
6 Becker Farm Road
Roseland, NJ 07068

EXAMINER

A, PHI DIEU TRAN

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 06/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/895,950

Filing Date: June 29, 2001

Appellant(s): VANDERMINDEN, ROBERT D.

MAILED

JUN 23 2006

GROUP 3600

FRANCIS C. HAND
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11/2/2005 appealing from the Office action mailed 12/22/2004.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1, 3-4, 9, 11-14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. There is no disclosure for both the pin 48 and the catch being movable or the catch being movable.

The merit to the claims are pending per the response to the 112 first paragraph above.

Allowable Subject Matter

3. Claims 5-8, 15, 17-24 are allowed.

(10) Response to Argument

Applicant states that applicant has possession of the invention as claimed and that the limitation of “at least one of said pin and said catch are movable relative to each other to release said pin from a selective one of said recesses” is enabled by the specification as disclosed, examiner respectfully sets forth the following. First of all, the specification only sets forth the pin being movable with respect to its tubular member, the catch being fixed to its attaching tubular member. Secondly, it is clear from the specification that the catch is not a coaxially movable structure as it is fixed to one of the tubular member. Thirdly, as only the pin is

Art Unit: 3637

movable, the limitation of “ at least one of said pin and said catch being movable relative to each other” is not enabled, since the catch is not movable. More specifically, the limitations are enabled when the pin is the “ at least one of...”, but not when the catch is “ the at least one of” structure. Applicant’s argument that the disclosure covers both the “pin” and the “catch” being movable, is thus not persuasive. The argument is thus moot.

Applicant’s argument that the disclosure and claims set forth, shows both the pin and catch being movable, is not enabled, and not supported by the specification as disclosed.

With respect to applicant’s argument that the written description requirement “need not describe the claimed subject matter in exactly the same terms as used in the claim; it must simply indicate to persons skilled in the art that as of the filing date the applicant had invented what is now claimed”, examiner respectfully states that although the description does not need to describe “...the subject matter in exactly the same terms...what is now claimed”, the description needs to show applicant is in possession of the claimed invention. Applicant has not demonstrated in the specification that applicant has possession of the invention to the “ catch being movable”. As disclosed throughout the specification, the catch is fixed, while the pin is movable. Applicant has not disclosed how the catch is movable either. In re Wright 999 F.2d 1557, 1561, 27 USPQ2d 1510, 1513 (Fed. Cir. 1993), the Federal Circuit has repeatedly held that “ the specification must teach those skilled in the art how to make and use the full scope of the claimed invention without “undue experimentation”. The argument is thus moot.

With respect to applicant’s argument to claim 5-8, examiner respectfully sets forth that the claims are allowable with the added limitation of “ coaxially” in line 12 of claim 5 as

Art Unit: 3637

previously cited. The inclusion of the claims in the 112 first paragraph was an error, which is hereby clarified and corrected.

With respect to claims 9, 11-14, examiner respectfully sets forth that the limitation of “ at least one of said pin and said catch being movable coaxially relative to each other” warrant the 112 first paragraph rejection as described above. The reasons for the rejection are the same as those described above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Phi Dieu Tran A *PA*

Conferees:

Lanna Mai *LM*

Pete Cuomo *PC*

LANNA MAI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

Lanna Mai